

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ANGELA T. PRATO, *Individually and as Administratrix of
the Estate of Richard E. Prato*, and MEGAN M. PRATO,

Plaintiffs

11-CV-181S

v.

ORDER

THE UNITED STATES OF AMERICA,

Defendant.

Before this Court is Plaintiffs' Motion for Approval of Settlement (Docket No. 33) in this action under the Federal Torts Claim Act. Because this action is brought on behalf of an Estate, it cannot be settled without leave of this Court. See Local Rule 41(a)(2)(A).

This Court has considered Plaintiffs' motion and the papers filed in support thereof and finds that no hearing is required. This Court finds that the proposed settlement is in the best interests of the estate and distributees. In so finding, this Court has considered: (1) the circumstances giving rise to the claim; (2) the nature and extent of the damages; (3) the terms of the settlement and amount of attorney's fees and other disbursements; (4) the circumstances of any other claims or settlement arising out of this same occurrence; and (5) the plaintiffs' statement of why they believe this settlement is appropriate. See Local Rule 41(a)(2)(i)-(v). Plaintiffs' motion will therefore be granted and this settlement approved.

IT HEREBY IS ORDERED, that Plaintiffs' Motion for Approval of Settlement (Docket No. 33) is GRANTED.

FURTHER, that the proposed settlement and Settlement Agreement is APPROVED.

FURTHER, that Plaintiff Angela T. Prato, as Administratrix of the estate of her father, Richard E. Prato, deceased, may compromise and discontinue all claims brought on behalf of that estate.

FURTHER, that Plaintiffs Angela T. Prato and Megan M. Prato are individually and collectively hereby authorized to settle, compromise, and discontinue the remaining causes of action brought in their individual capacities as set out in the Settlement Agreement.

FURTHER, that pursuant to the Settlement Agreement, upon receipt of \$400,000 in his IOLA/Attorney Trust account in full satisfaction of the Settlement Agreement, Attorney Shawn W. Carey may, on behalf of The Carey Firm LLC, withdraw from that amount \$12,388.32 to reimburse The Carey Firm LLC the cost of litigation expenses, and may also withdraw \$96,902.92 as a fair, reasonable, and approved attorney fee.

FURTHER, that whereas the Niagara County Surrogate's court has issued a Decree permitting Plaintiffs' individual recovery to be distributed directly to Plaintiffs, Angela T. Prato and Megan M. Prato, in their individual capacities, and in equal amounts, that the remaining recovery shall be distributed to Plaintiffs in this manner after satisfaction of any liens on said recovery.

FURTHER, that the Clerk of Court shall close this case.

SO ORDERED.

Dated: January 10, 2014
Buffalo, New York

s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Judge